

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DUSTIE CLOSSON, §
Plaintiff, §
v. § Civil Action No. 5:16-cv-00364
CITIMORTGAGE, INC. §
Defendant. §

NOTICE OF REMOVAL

Defendant CitiMortgage, Inc. (CMI) hereby removes the action Dustie Closson (Closson) filed in the 288th District Court of Bexar County, Texas and assigned Cause No. 2016CI05482, pursuant to 28 USC §§ 1331 and 1441 for the reasons explained below.

I. STATEMENT OF THE CASE

On March 30, 2016, Closson commenced a lawsuit in the 288th District Court of Bexar County, styled *Dustie Closson v. CitiMortgage, Inc.* and assigned Cause No. 2016CI05482.¹ Closson filed this action to avoid the foreclosure sale of the real property located at 330 Cedron Chase, San Antonio, Texas 78253. Closson contends CMI violated the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, *et seq.* (RESPA) by "not postpon[ing] the foreclosure sale despite receipt of Plaintiff's [Qualified Written Request]."² Closson seeks (1) injunctive relief³ and (2) monetary and non-monetary relief.⁴

¹ See Plaintiff's Original Verified Petition (Pet.), **Exhibit 1**.

² See Pet. ¶ 8.

³ See Pet. ¶ 40.

⁴ See Pet. at prayer (a).

II. BASIS FOR FEDERAL QUESTION JURISDICTION

Under the "well-pleaded complaint rule," federal question removal is appropriate "when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). This Court has federal question jurisdiction over this case pursuant to 28 USC §§ 1331 and 1441 because Closson claims CMI violated RESPA.⁵ The Court has supplemental jurisdiction over remaining state law claims, if any, because they "form part of the same case or controversy." 28 USC § 1337(a).

III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED

Removal of this action is timely under 28 USC § 1446(b) because it is being filed within thirty days of the receipt of the complaint, through service or otherwise, by CMI. Venue is proper in this Court because the United States District Court for the Western District of Texas, San Antonio Division, embraces the place in which the state court action was pending. 28 USC § 1441(a). Notice has been sent to the state court regarding the removal of this action. Pursuant to 28 USC § 1446(a), a true and correct copy of all of the process, pleadings, and orders on file in the state court action are attached as **Exhibits 1-8**.

⁵ See Pet. ¶¶ 22-25.

IV. CONCLUSION

The Court may exercise federal question over this action because Closson asserts claims under RESPA.

Date: April 12, 2016

Respectfully submitted,

/s/ Michael J. McKleroy, Jr.

Michael J. McKleroy, Jr., SBN: 24000095
Attorney-in-Charge
C. Charles Townsend, SBN: 24028053
Of Counsel
Leslie A. Utiger, SBN: 24078070
Of Counsel
AKERMAN, LLP
2001 Ross Avenue, Suite 2550
Dallas, Texas 75201
Telephone: 214.720.4300
Facsimile: 214.981.9339
charles.townsend@akerman.com
michael.mckleroy@akerman.com
leslie.utiger@akerman.com

**ATTORNEYS FOR DEFENDANT
CITIMORTGAGE, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2016, a true and correct copy of the foregoing was served as follows:

VIA CERTIFIED MAIL / RRR
NO. 9414 7266 9904 2066 3098 63

Wade Kricken
2711 North Haskell
Suite 550
Dallas, Texas 75204
Counsel for Plaintiff

/s/ Michael J. McKleroy, Jr.

Michael J. McKleroy, Jr.